

**REMARKS**

Claims 1-7 are pending in the application with Claims 1, 6 and 7 being independent claims. The Examiner rejected Claims 1-7 under 35 U.S.C. §103(a) as being unpatentable over Herrmann (US 7,050,415 B1) in view of Peisa (US 6,826,193 B1).

Reconsideration of the present application is respectfully requested.

Please amend Claims 1 and 4-7 as set forth herein.

Regarding the rejection of independent Claims 1, 6 and 7 under 35 U.S.C. §103(a), the Examiner states that Herrmann in view of Peisa renders these claims unpatentable. Amended Claims 1, 6 and 7 each to recite, in part, "...before receiving buffer occupancy information from the radio link control (RLC) layer", and "...transmitting at the radio link control (RLC) layer initial transmission data along with buffer occupancy information of a transmission buffer to the MAC layer based on the received initial PDU value" After reviewing Herrmann (see col. 1, lines 26-29; col. 2, lines 59-61; col. 4, lines 40-45; col. 5, lines 16-19 & lines 43-55 and col. 7, lines 42-47) and Peisa (in particular, see col. 5, lines 8-15), Herrmann does not disclose the recitations claimed in Claims 1, 6 and 7, because the selection of Herrmann for the most favorable available transport format (i.e. the format allowing the highest data rate) appears to be sequentially based after querying the RLC buffers of the individual logic channel (in particular, see col. 8, lines 33-38). Peisa does not cure these defects of Herrmann.

It is respectfully submitted that the present application discloses selecting an initial TFC for preferentially allocating a maximum packet data unit (PDU) value to a transmission channel on which a logic channel having a relatively high priority among a plurality of transmission channels, without considering data packet assigned to the transmission channel or buffer occupancy, or selecting an initial TFC using the received TFS information and the TFCS information. However, Herrmann discloses selecting a next TFC considering a priority of a logic channel and data packet assigned to the transmission channel. Furthermore, Herrmann selects the

TFC considering buffer occupancy and TTI if priorities of the logic channels are equal (in particular, see column 5, lines 16-28).

Because the above arguments are believed to place amended independent Claims 1, 6 and 7 in condition for allowance, then, at least because of their dependence on these claims respectively, dependent Claims 2-5 are also in condition for allowance.

Claims 1-7 are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul V. Farrell", written over a horizontal line.

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